



No. 22-40083

imprisonment and five-years' supervised release. Sanchez challenges the denial of his motion, pursuant to 18 U.S.C. § 3582(c)(1)(A), for compassionate release.

Sanchez contends his asthma, in combination with new COVID-19 variants and the conditions at the prison, constitute the requisite extraordinary and compelling reasons justifying early release. (For the first time on appeal, Sanchez asserts he was denied medical attention and his inhaler when he was previously infected with COVID-19. Because this issue and underlying facts were not before the district court, our court does not address this new issue. *United States v. Thompson*, 984 F.3d 431, 432 n.1 (5th Cir.), *cert. denied*, 141 S. Ct. 2688 (2021) (quoting *Theriot v. Par. of Jefferson*, 185 F.3d 477, 491 n.26 (5th Cir. 1999) (“An appellate court may not consider new evidence furnished for the first time on appeal and may not consider facts which were not before the district court at the time of the challenged ruling.”)).)

Denial of a compassionate-release motion is reviewed for abuse of discretion. *United States v. Chambliss*, 948 F.3d 691, 693 (5th Cir. 2020). A court abuses its discretion when it “bases its decision on an error of law or a clearly erroneous assessment of the evidence”. *Id.* (citation omitted). A court may modify a defendant’s sentence, after considering the applicable 18 U.S.C. § 3553(a) sentencing factors, if “extraordinary and compelling reasons warrant such a reduction”. 18 U.S.C. § 3582(c)(1)(A)(i).

The court found Sanchez’ fear of reinfection was not an extraordinary and compelling reason for release because: his asthma was controlled; he had been vaccinated against COVID-19; reinfections of vaccinated individuals were rare; and, at the time of the order, Sanchez was housed at a facility with no active COVID-19 cases among inmates and only three cases among staff. This decision was not based on an error of law or a clearly erroneous

